

CHAPTER 4

EQUAL OPPORTUNITY AND FAIR HOUSING

I. INTRODUCTION.

Providing equal opportunities to all persons without regard to race, color, religion, age, ancestry, marital status, physical disability, national origin, sex, or any other arbitrary basis is an important part of CDBG administration. This chapter discusses how you must provide equal opportunities as you complete your CDBG activities and how to comply with fair housing laws as part of providing equal opportunities to all persons.

II. GRANTEE RESPONSIBILITIES.

All CDBG grantees must provide equal opportunities in the areas of (a) housing programs and projects (b) contracts for services and construction; (c) provision of public services, community facilities, and local improvements; (d) CDBG-related employment. Regulations regarding physical accessibility for person with disabilities (Section 504 and ADA) and hiring low-income persons and businesses (Section 3) require specific actions when triggered by certain programs and projects. Certain minimum requirements apply in each of these areas; it is incumbent upon the grantee to fulfill the responsibilities agreed upon in your contract and the application's assurances. This chapter covers the following topics:

- A. Housing Programs and Projects
 - 1. Required actions
 - 2. Required Record keeping and files
 - 3. Suggested actions
 - 4. Reporting
- B. Contracts for Services and Construction
 - 1. Required actions
 - 2. Required Record keeping and files
 - 3. Reporting
- C. Provision of public services, community facilities, and local improvements
 - 1. Required actions
 - 2. Required record keeping and files
 - 3. Suggested actions
 - 4. Reporting
- D. Employment
 - 1. Required actions
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- E. Section 3 compliance
 - 1. Definitions
 - 2. Required actions
 - 3. Reporting and Record keeping
 - 4. Complaint Process and Resolution
- F. Accessibility for Persons with Disabilities (including Section 504 compliance)
 - 1. Communications
 - 2. Employment
 - 3. Program accessibility
 - 4. Housing accessibility
 - 5. Enforcement

A. Housing Programs and Projects (Fair Housing).

- 1. Required actions. You must not discriminate in the administration of CDBG housing-related programs based on race, color, religion, age, ancestry, marital status, physical disability, national origin, or sex. Administration includes advertising, making loans, real estate services, site selection, rentals, and sales. If there have been past discriminatory actions by the grantee which have been found as a result of a compliance review or court action, affirmative actions to overcome the effects of past discrimination must be taken.

Minimum requirement for all grantees: Every grant must be administered in a manner, which affirmatively promotes fair housing. *Therefore, at a minimum, you must establish an administrative procedure for receiving and referring complaints of housing discrimination to the Federal Department of Housing and Urban Development (HUD) and State Department of Fair Employment and Housing (DFEH). Other affirmative programs may be substituted for the minimum requirement. **See section VII. Supporting Materials for a listing of sample Fair Housing documents to meet these requirements and a list of DFEH district offices.**

*All grantees will be monitored on this minimum requirement.

All grantees are strongly encouraged to analyze impediments to fair housing choice in their jurisdiction. Jurisdictions wishing to do this analysis may contact the State CDBG Program for assistance. Planning and technical assistance grants can be used to pay for these studies and their supporting documents.

- 2. Required record keeping and files. Each housing program or project should have a marketing file with documentation of outreach efforts showing that all local persons have the opportunity to participate in the CDBG funded

activity. *In order to determine if programs and projects are being implemented in such a way as to not exclude protected groups, documentation must be kept in your files regarding the location of housing-related activities, demographic characteristics of applicants and actual beneficiaries of those activities, the efforts utilized to inform and recruit potential participants, and the criteria for selecting participants. Actions which affirmatively promote fair housing and which establish an administrative procedure for handling housing discrimination complaints must also be documented in the files.

*All grantees will be monitored for compliance with the requirement to provide demographic data comparing local residents to program applicants/participants using 2000 census data. This information should be updated annually as part of preparation of annual grantee performance reports.

Jurisdictions are reminded that California housing element law (Article 10.6 of the Government Code) requires each jurisdiction to have a fair housing program as part of its housing program (Government Code Section 65583(c) (1-5). To fully implement a fair housing program, localities should have an information dissemination component to advise potential complainants of the existence of the program. Localities typically post notices advertising the fair housing program in public buildings (City Hall, community center, senior center, court house, library, etc.) likely to accommodate a diverse clientele. The California Department of Fair Employment and Housing has posters and literature available on its web site www.dfeh.ca.gov and look under publications for this purpose.

3. Suggested actions. Grantees are encouraged to actively support local fair housing counseling and education efforts through direct financial support for a government agency or a nonprofit organization engaged in such activities, or through the distribution of printed or audio-visual material. You are encouraged to establish April of each year as Fair Housing Month as a means of publicizing the importance of and the jurisdiction's commitment to fair housing practices. Place the Fair Housing logo on all marketing materials and post Fair Housing posters at program offices and projects.
4. Reporting. Grantees must use the annual Grantee Performance Report (GPR) to report your actions to assure non-discrimination and to promote fair housing.

B. Contracts for Services and Construction.

1. Required actions contracts. All grantees are required to include federal language into their contracts and agreements for services and construction. The required language varies depending on the activity and the agencies under the agreement. **See the Document Matrix in Chapter 5 and the**

Procurement Monitoring Checklist in Chapter 12 to identify what language needs to be in the specific contract you are preparing.

Housing rehabilitation and other construction contracts

- a. You must include standard nondiscrimination language in all contracts and subcontracts. **See section VII. Supporting Materials for required language.** This includes rehabilitation contracts between homeowners and contractors.
- b. In addition to the requirements of paragraph a. above, all solicitations for bids and (sub)contracts issued for CDBG-funded construction activities in excess of \$10,000 must include the following **See section VII. Supporting Materials for sample language needed for the regulations listed below.**
 - 1) The Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (solicitation for bid only). The blanks on this page must be filled in using the appropriate numbers found in "The Goals and Timetables for Female and Minority Employment". **(41CFR60-4.2)**
 - 2) The Equal Opportunity Clause (both solicitation for bid and contract/subcontract). **(41CFR60-4.3(a))**
 - 3) The Standard Federal Equal Employment Opportunity Construction Contract Specifications (both solicitation for bid and (sub)contract). **(41CFR60-1.4(b))**
 - 4) Section 3 regulations require that all bid documents and construction contracts and subcontracts which are \$100,000 or more contain the proper Section 3 language. **See the section VII. Supporting Materials for required language.**

Information on the recommended pre-construction conference to familiarize contractors with these and other requirements is found in Chapter 5 of this manual.

If the (sub)contract is for housing rehabilitation costing more than \$10,000 and is between a property owner and a contractor, the above documents need only be referenced by inserting the following phrase: "The contractor hereby agrees to abide by the requirements of Executive Order 11246 and all implementing regulations of the Department of Labor."

- c. You must take affirmative actions to assure that small, women, and minority businesses are utilized when possible as contractors for supplies, equipment, construction, and services, regardless of dollar amount. Affirmative actions shall include the following: **(41CFR-60-4)**
- 1) Placing qualified small, women, and minority businesses on solicitation lists. **See section VII. Supporting Materials for resources to contact to order women's and minority business lists.** You should develop your own list for your local area.
 - 2) Assuring that small, women, and minority businesses are solicited whenever they are potential contractors, before the contract is awarded.
 - 3) Where possible, if purchases can be made economically, dividing total requirements into small units to encourage small, women, and minority business participation.
 - 4) Establishing delivery schedules which will encourage participation by small, women, and minority businesses.
 - 5) Using the services and assistance of the federal Small Business Administration, the Office of Minority Business Enterprise of the federal Department of Commerce, and other applicable State and federal agencies.
 - 6) If any subcontracts are let, requiring the prime contractor to take the affirmative steps listed in items 1) through 5) above then the necessary bid language must also go into the agreement between the subcontractor and the prime contractor.
 - 7) You must secure a written affirmative action program from all contractors (construction and non-construction) if the contract is for at least \$50,000 and the contractor employs at least 50 people. The programs must include separate goals and timetables for minorities and for women based on information on the contractor's labor area as provided by the Department of Labor. **See Chapter Supporting Materials for a listing of Department of Labor area offices.**
- d. You must take affirmative actions to assure that employment and training opportunities created by construction contracts and subcontracts at or above \$100,000 are marketed to local Section 3 residents. Furthermore, any other contracting or subcontracting

opportunities that are required for the project should be marketed to local Section 3 businesses (for example hiring a local architect or engineer for the project). All construction contracts and subcontractors contracts at or above \$100,000 must contain all the necessary documents to show that the any job or employment opportunities created by the project were marketed to Section 3 individuals and businesses. Part E of this chapter has details of what Section 3 regulations are in place and how to comply. In addition, **see section VII. Supporting Materials for sample documents needed for the compliance with Section 3 regulations.**

2. Required record keeping and files. You must keep in your files copies of all solicitations for bids, contracts, women and minority business lists, solicitation lists, documentation of affirmative actions taken, and copies of any forms submitted pursuant to the reporting requirements below. Grantees must also keep documentation of checking contractors against federal debarred list.
3. Reporting requirements.
 - a. All contractors **must** be checked against the federal list of debarred contractors prior to executing their contracts, to ensure that the proposed contractors are not in violation of equal opportunity laws. We strongly encourage grantees with Internet access to make their own debarment checks at **<http://epls.arnet.gov>** by clicking on the excluded parties list; if this is not possible you must inform the Department by phone or mail of the names of all proposed contractors prior to contract execution, and we will inform you of the results of our debarment search. **If you need assistance in accessing the federal debarred Internet site, please contact your assigned CDBG representative by phone or by e-mail.**
 - b. For all construction contracts, within 10 days of contract execution, contractors must submit to the applicable area office of the U.S. Department of Labor (DOL), Office of Federal Contract Compliance Programs, a list of all construction subcontractors over \$10,000. **See section VII. Supporting Materials for sample reporting chart.**
 - c. For construction contracts of "mega-projects" as defined by DOL and where there have been compliance problems, the Monthly Employment Utilization Report (DOL Form CC-257) is required. If you are required to submit this form, contact a DOL area office to obtain a copy. **See section VII. Supporting Materials Page for a listing of Department of Labor area offices.**

- d. For all open grant contracts, the annual Grantee Performance Report, Section 3 Report, and the Contract and Subcontract Activity Report (**See Chapter 10**) will be used to report all actions taken to award contracts to small, minority and women businesses, and businesses located in or owned in substantial part by Section 3 (low income) residents of the unit of local government. Section 3 is discussed in greater detail later in this chapter.

C. Provision of Public Services, Community Facilities, and Improvements.

1. Required actions. All CDBG-funded activities must be carried out in a way that does not discriminate against persons on the basis of race, color, religion, age, ancestry, marital status, physical disability, national origin, or sex. If there have been past discriminatory actions by your jurisdiction which have been found as a result of a compliance review or court action, affirmative actions to overcome the effects of past discrimination must be taken.

Any public services or community facilities must be, to the greatest degree possible made accessible to disabled individuals. If services or community facilities cannot be made accessible then other measures must be taken to ensure that person with disabilities may utilize in and benefit from the CDBG funded services and facilities.

2. Required record keeping and files. You must keep accurate, up-to-date records (updated annually when the grantee performance reports are done) based on census data, applications for rehabilitation assistance or applications for public services, surveys or other appropriate sources of the race, ethnicity, gender, disability, and age of the program's target area residents (**using 2000 census data**), applicants for direct assistance, and actual beneficiaries. Also included must be data on the entire jurisdiction's residents. **You will be monitored on this comparison so be sure to include a copy of this comparison in your general administration's Equal Opportunity file for review by state staff at monitoring.**

Documentation of affirmative actions, such as targeted outreach efforts, must be included in the files of those grantees in jurisdictions where past discriminatory actions have been found through a compliance review or court action, and should be included in the files of all other grantees

3. Suggested actions. You are encouraged to ensure equal opportunity to all by providing, for example, targeted outreach and publicity, counseling services, and translators at public meetings. Check the physical location of public service providers and community facilities being funded with CDBG funds to ensure they are accessible to person with disabilities, and if not then work with program operators to ensure person with disabilities s can be served and utilize the facility.

4. Reporting. Use the annual Grantee Performance Report (GPR) (see Chapter 10) to report affirmative actions taken and the characteristics of beneficiaries.

D. Employment.

1. Required actions. You must not deny the opportunity for employment in any CDBG program or activity on the basis of race, color, religion, age, ancestry, marital status, physical disability, national origin, sex, medical condition, or any arbitrary basis. Where discriminatory actions have been found as a result of a compliance review or court action, affirmative action must be taken to overcome the effects of that discrimination.

To the greatest extent feasible, you are required to provide facilities such that persons with disabilities can have the opportunity to apply for training and employment arising out of the CDBG programs. **See Section F. 2a and b of this Chapter for specific requirements.**

You must have a formal policy concerning nondiscrimination in employment, and should designate a person to oversee compliance.

For Section 3 employment opportunities: Grantees with open grant awards or program income that are \$200,000 or more must take affirmative actions to assure that full time (permanent or temporary or seasonal) employment and training opportunities created by in house administration of these grants are marketed to local Section 3 residents. The grantee must use the necessary documents to show that the any full time training or employment opportunities created within the grantee staff, paid for with CDBG funds, were marketed to Section 3 individuals, the number of Section 3 persons who benefited, and if no Section 3 beneficiaries then explain why. For grants which involve housing construction or rehabilitation or public construction where contracts are \$100,000 or more, Grantees must make sure Section 3 outreach is done for all contracts awarded under the grant activity (including activity delivery consultants, engineers and architects). This does not apply to the purchase of materials only. Part E of this chapter has details of what Section 3 regulations are in place and how to comply. **See section VII Supporting Materials for sample documents needed for the grantee to comply with Section 3 regulations.**

2. Required record keeping and files. You must keep for at least four (4) years after the final grant report is submitted. Typical records include, grant general administration file, program participant or project activity file, audits and litigation, copies of all plans, documents, brochures, announcements, and actions related to the recruitment, employment, lay-off, termination, training, upgrading, demotion, transfer, rates of pay and demographic

characteristics of employees paid with CDBG funds. Information on the race, ethnicity, gender, age, and physical disability of applicants and interviewees must be requested but cannot be required as part of an application for employment. All information obtained must be kept on file.

All documentation of employment and contracting opportunities generated and the good faith efforts to train and/or hire low-income residents of your jurisdiction must also be included in the files. If goals and timetables have been imposed because of past discrimination, documentation of progress related to those goals must be included in the files.

3. Suggested actions. You are encouraged to undertake special recruitment and training efforts to encourage racial and ethnic minorities, the physically disabled, women, and Section 3 (low-income) residents of your jurisdiction to apply for and/or be promoted into CDBG-funded positions. Such efforts may include, but not be limited to, advertising in media which target those communities, retrofitting workspace to ensure wheelchair access, and offering job preparation classes.
4. Reporting. Use the annual GPR and Section 3 report to report on the status of CDBG-funded employees and related information.

E. Section 3 Compliance.

Grantees should know when Section 3 regulations apply and be aware of the thresholds which trigger compliance. Grantees should also know how to document compliance with Section 3 regulations and be able to set up the proper procedures and policies and filing system. In establishing the CDBG program, Congress extended Section 3 regulations to the program with the intent that lower-income persons (at or below 80 percent of the area median income, adjusted for household size) derive a portion of the employment benefits from the expenditure of CDBG dollars. For employment purposes lower-income persons are called Section 3 residents.

1. Definitions

Section 3 regulations are applied to the following HUD assistance:

- Public and Indian housing assistance; or
- Housing and Community Development assistance; including
 - Housing rehabilitation (including lead hazard reduction)
 - Housing construction; and
 - Other public construction.

A “Section 3 resident” is defined as:

- A public housing resident; or
- An individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended, and who is a low income or very low income person (i.e., individuals or families) whose incomes does not exceed 80% of the median income for the county.

A “Section 3 business concern” is defined as a business concern:

- With a 51 percent or more ownership by Section 3 residents; or
- Whose permanent, full-time employees include persons at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "Section 3 business concern."

A “Service area” is defined as the geographical area in which the persons benefiting from the Section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the Section 3 covered assistance is expended.

A “Neighborhood” is defined as:

- A geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, specific plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or
- The entire jurisdiction of a unit of general local government which is under 25,000 population; or
- A neighborhood, village, or similar geographical designation in a New Community as defined in 24 CFR 570.403 (a) (1).

“New hires” are full-time employees for permanent, temporary or seasonal employment opportunities.

2. Required actions. Section 3 requires that, to the greatest extent feasible, employment and other economic opportunities generated by certain HUD-

financed activities be directed to low and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very low income persons.

Section 3 applies to you, the grantee, if:

- the grant award exceeds \$200,000; and
- the grant funds are used for housing rehabilitation, housing construction, or other public construction projects.

If the grant award is \$200,000 or more but there are no housing or public construction contracts for prime or subcontractors which exceed \$100,000 then the Section 3 requirements only apply to the grantee and its staff. If the grant award is \$200,000 and there are construction contracts for rehab and public projects above \$100,000 then Section 3 applies to all procurement done for that activity. So, in addition to the grantee having to comply with Section 3, and all prime and subcontractors doing construction work, all other consultants working on the project must also comply, i.e. engineer or architect or labor standards coordinator, or program operator.

Section 3 applies to contractors and subcontractors performing work on Section 3 covered projects if:

- the grantee's award exceeds \$200,000; and
- the contract amount exceeds \$100,000.

Section 3 does not apply to contracts for the purchase of supplies and materials if no installation is involved.

It is your responsibility to:

- establish and implement procedures to comply with Section 3;
- facilitate the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
- give preferences to Section 3 business concerns when you procure a service or construction contract for a Section 3-covered project;
- ensure that your contractors and subcontractors comply with Section 3;
- proactively implement procedures to notify Section 3 residents regarding training and employment opportunities generated by Section 3 covered activities;
- notify Section 3 business concerns regarding contracting opportunities generated by Section 3 covered activities; and
- notify potential contractors of Section 3 requirements.

At the grantee level, Section 3 requirements apply to hires made for the city or county's CDBG workforce. Thus, if CDBG funds are not used for new hires by the grantee, Section 3 would not apply to those new employees. For Section 3 purposes, a new hire means a full-time employee for a new permanent, temporary or seasonal position that is generated from the expenditure of Section 3-covered assistance.

a. Training and employment opportunities for Section 3 Residents. CDBG grantees, contractors, and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in the order of priority listed below:

- 1) Section 3 residents residing in the service area or neighborhood in which the Section 3 covered project is located;
- 2) Participants in HUD Youthbuild programs (category 2 residents);
- 3) Where the Section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless persons residing in the service area or neighborhood in which the Section 3 covered project is located shall be given the highest priority;
- 4) Other Section 3 residents:
You may, at your discretion, give priority to recipients of government assistance for housing, including recipients within the service area or neighborhood where the Section 3 project is located who hold certificates or vouchers under the Section 8 housing assistance program. For example, you may give priority within preference category 1, above, to a Section 8 certificate holder who lives in the neighborhood.

A Section 3 resident seeking preference in training and employment shall certify, or submit evidence of qualifying to the grantee, contractor, or subcontractor if requested. **See the section VII. Supporting Materials for a sample Section 3 Resident Eligibility Certification form.** An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.

b. Contracting opportunities. Grantees, contractors, and subcontractors shall direct their efforts to award Section 3 covered contracts, to the greatest extent feasible, to Section 3 business concerns in the order of priority listed below:

- 1) Section 3 business concerns that provide economic opportunities for Section 3 residents in the service area or neighborhood in which the Section 3 covered project is located.
- 2) Applicants selected to carry out HUD Youthbuild programs.
- 3) Other Section 3 business concerns.

A business concern seeking to qualify for a Section 3 contracting preference shall:

- Certify or submit evidence of qualifying, if requested. **See section VII. Supporting Materials for a sample forms to be completed by prospective contractors and subcontractors.**
- Submit evidence to the recipient, contractor, or subcontractor, if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. In selecting a contractor you must consider the potential contractor's record in complying with public policy requirements, including Section 3 compliance.

Section 3 solicitations and contracts must contain the "Section 3 Clause" **See section VII. Supporting Materials for required language.**

c. Numerical goals. Section 3 is results oriented and does not prescribe the procedures to be followed. There are no quotas, but instead **minimum** numerical goals/targets to be met by Section 3 recipients. The numerical goals are as follows:

- 1) The Target for New Hires Training and Employment Opportunities is 30% of the aggregate number of new hires

2) Targets for Contracts with Section 3 Business Concerns:

Construction 10% of the total dollar amount of all Section 3 covered contracts.

All Other 3% of the total dollar amount of all other Section 3 covered contracts.

Grantees that meet the minimum numerical goals will be considered to have complied with Section 3 preference requirements. **If a grantee or their contractors are not able to meet the stated goals then a written explanation of why the goals were not met must be put into the Section 3 general administration file.**

3. Reporting and record keeping. If Section 3 applies to your jurisdiction (a grant amount of \$200,000 or more), you only need to complete one Section 3 report and one Contract and Subcontract Activity Report each year, regardless of how many open CDBG grants you have (**See Chapter 10 for report forms**). Please note, however, that a separate Section 3 report must be completed for each HUD-awarded program (If you have a Section 3 covered project funded by the HOME program, then you must complete a separate Section 3 report for the HOME program.). A Section 3 report **must** be completed even if there were no new hires or training opportunities during the reporting period.

Your Section 3 report will be a compilation of the Section 3 data maintained by your jurisdiction and the Section 3 data that you have collected from contractors and subcontractors with a contract exceeding \$100,000. You must document your jurisdiction's efforts to comply with Section 3 requirements, the results of your efforts and impediments, if any. You may want to require contractors and subcontractors to submit their Section 3 reports with their payment requests.

Part of the Section 3 documentation you collect for employment opportunities will be the "Section 3 Resident Eligibility Certification" forms completed by individuals applying for jobs in connection with Section 3 covered projects. These forms should be kept as documentation for how preferences were given and for completing the annual report. **See section VII. Supporting Materials for sample forms and documents.**

Contractors and subcontractors performing work on Section 3 covered projects must maintain records sufficient to document compliance with Section 3 requirements by completing the Section 3 report and the Contract and Subcontract Activity Report which will be submitted to the grantee. **See Section 3 Report and Contract and Subcontract Activity Report forms in Chapter 10.**

4. Section 3 complaint process and resolution.

Step One: Complaint: Complaints may be filed by any Section 3 resident on behalf of himself or herself, or as a representative of Section 3 residents, or by any Section 3 business concern on behalf of itself, or as a representative of Section 3 business concerns.

The complaint should be:

- Filed with the Assistant Secretary for Fair Housing and Equal Opportunity Department of Housing and Urban Development, Washington, D.C., 20410;
- Received no later than 180 days from the date of the action or omission upon which the complaint is based;
- In writing, signed by the complainant, and include the complainant's name and address, the name and address of the respondent, and a description of the act or omission by the respondent.

Step Two: HUD Review: Within 10 days of timely filing of a complaint with complete information, the Assistant Secretary shall determine whether the allegation, if proven, qualifies as noncompliance with Section 3. If so, the complaint will be sent to the respondent for resolution.

Step Three: Response: If the respondent believes that the complaint lacks merit, the respondent must notify the Assistant Secretary in writing of this recommendation with supporting reasons within 30 days of the date of receipt of the complaint. The Assistant Secretary will make the final determination.

If the respondent determines that there is merit to the complaint, the respondent will have 60 days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the respondent must notify the Assistant Secretary in writing of the terms of the resolution reached between the two parties. Both the respondent and the complainant must sign this notification.

If requesting an extension of the 60-day period, the respondent must submit the request in writing and include a statement explaining the need for the extension.

If the complaint is not resolved within the 60-day period (or more if extended), the complaint will be referred to the Assistant Secretary for resolution.

Step Four: HUD Review: Upon receipt of the respondent's written recommendation that there is no merit to the complaint, or upon failure of the respondent and complainant to reach resolution, the Assistant Secretary

at HUD shall review the complaint. Where the complaint fails to present a valid allegation of noncompliance with Section 3, the Assistant Secretary will dismiss the complaint and notify the complainant of the reasons for the dismissal.

Where there is a valid allegation of noncompliance with Section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. If informal resolution fails, then the Assistant Secretary will impose a resolution and or sanctions on the respondent and complainant. The imposed resolution will become effective 15 days following notification to the respondent and complainant. A written appeal, describing the basis for the appeal, may be submitted to the Assistant Secretary prior to the expiration of the 15 days.

Sanctions that may be imposed on respondents found to be in noncompliance with Section 3 include debarment, suspension, and limited denial of participation in HUD programs.

NOTE: The sample Section 3 forms in the Chapter Supporting Materials have been provided courtesy of the Community Development Commission of Mendocino County.

F. Accessibility for Persons with Disabilities

As noted above, grantees cannot discriminate in housing or employment against those with physical disabilities. **See 1.a. Housing and 1.d. Employment, above.** In addition, CDBG regulations mandate that grantees follow the regulations of two pieces of federal legislation which govern the accessibility of federally-assisted buildings and facilities, the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157) and the Americans with Disabilities Act (ADA) (42 U.S.C. 12131; 47 U.S.C. 155,201,218 and 225).

In general, the Architectural Barriers Act requires that federally-funded buildings are designed, built or changed to insure the accessibility and use of the structures by the type of disability. Buildings or facilities allocated or reallocated CDBG moneys after December 11, 1995, meeting the definition of a “residential structure” (defined in 24 CFR 40.2) or the definition of “building” [defined in 41 CFR 101-19.602(a)] must conform to the Architectural Barriers Act and with the Uniform Federal Accessibility Standards. The applicable Uniform Standards can be obtained at the following web site:

http://www.hudclips.org/sub_nonhud/cgi/pdfforms/UFAS.pdf; as shown in Appendix A to 24 CFR Part 40 and Appendix A to Part 41 CFR Part 101-19.

The ADA extends civil rights to those with disabilities in the following areas: employment, public accommodations, state and local government services, and telecommunications. Discrimination could occur if facilities are designed or constructed (built for initial occupancy after January 26, 1993) and are not accessible or usable by those with disabilities. The ADA also mandates that structurally-based

architectural and communications barriers be removed, provided that the removal be readily achievable, easily accomplished and capable of being accomplished with little difficulty or expense.

Section 504 compliance addresses non-discrimination and affirmative action efforts as applied to persons with disabilities. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally-assisted programs based upon an individual's disability. This applies to direct and indirect recipients of funding under Title I of the Housing and Community Development Block Grant Act of 1974. For recipients or subrecipients principally involved in housing or social services, Section 504 applies to all of the agency's activities, not just those directly receiving federal assistance. Section 504 only applies to contractors and vendors when they do work on the behalf of recipients and subrecipients.

Any housing project that requires compliance with Section 504 must have a certificate of compliance with the above referenced codes and standards before any CDBG funds are released for the project. **See section VII Supporting Materials for sample certification form.**

In addition to the non-discriminatory and affirmative action activities discussed elsewhere in this chapter, grant recipients must undertake several activities to be in minimal compliance with Section 504:

1. Communications.

- a. Grantees must take appropriate steps to ensure effective communication with applicants, beneficiaries and members of the public. In determining which auxiliary aids are necessary for persons with disabilities (e.g. telecommunication devices for deaf persons (TDD's)) the grantee must give primary consideration to the requests of the persons with disabilities. For example, where a grantee communicates with applicants by telephone, TDD's or equally effective communications systems should be used.
- b. The recipient shall adopt and implement procedures to ensure that interested persons (including persons with impaired vision or hearing) can obtain information concerning the existence and location of accessible services, activities and facilities.
- c. This section does not require a grantee to take any action that the jurisdiction can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. The grantee must nonetheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits and services of the program or activity receiving HUD assistance.

2. Employment. In addition to the general prohibitions against discrimination discussed elsewhere in this chapter, CDBG recipients must ensure the following:
 - a. A grantee must make reasonable accommodations for known physical and mental limitations of an otherwise qualified applicant with disabilities or an employee with disabilities, unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.
 - b. A grantee may not use any employment test or other selection criterion that screens out or tends to screen out persons with disabilities or any class of individuals with disabilities. Pre-employment inquiries may not be made to determine whether the applicant is an individual with disabilities or the nature or severity of a disability except as directly related to an applicant's ability to perform job-related functions.
3. Program accessibility. Except as otherwise provided, no qualified person with disabilities shall, because a recipient's facilities are inaccessible to or unusable by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance.

Recipients using CDBG funds for the construction or alteration of community facilities should comply with the applicable Uniform Standards at the following web site:

http://www.hudclips.org/sub_nonhud/cgi/pdfforms/UFAS.pdf. The CDBG staff will require a certificate from the project's architect certifying that it complies with the above guidelines. **See the Chapter Supporting Materials for sample certification form.**

4. Housing Accessibility. Requirements must also be met by multi-family housing constructed in whole or in part by HUD funds:

In new construction multifamily rental developments:

- Five percent of the units in the project must be accessible to those with mobility impairments, and
- An additional two percent of the units must be accessible to those with hearing or vision impairments.

In substantially rehabilitated multifamily rental projects (projects with 15 or more units in which the rehabilitation costs will equal at least 75 percent of the replacement costs):

- Five percent of the units in the project must be accessible to those with mobility impairments, and

- An additional two percent of the units must be accessible to those with hearing or vision impairments.

In multifamily rental developments where the rehabilitation is not as extensive as substantial rehabilitation:

- Every alteration of every unit must make the unit accessible to the maximum extent feasible until five percent of the units are fully accessible to people with mobility impairment;
- Alterations to common areas in these projects must always make the project accessible to the maximum extent feasible;
- Accessible units must be equipped with visual and sensory smoke detectors; and
- Structures not being altered do not need to be made accessible if the project can be made accessible through another approach.

In for-sale units:

- The buyer of a for-sale unit can determine their own accessibility requirements;
- Alteration costs for accessibility are considered an eligible program expense; The costs of the accessibility alteration may be included in the mortgage amount and any costs above the limit may be passed on to the buyer;
- Units must be made accessible if the expected occupant's disability requires alterations. The buyer may be permitted to depart from applicable accessibility standards to accommodate the specific disability.

5. Enforcement of Section 504.

- a. Assurances. All applicant jurisdictions to the State CDBG program are required to submit along with each application a signed Statement of Assurances which states, in part, that the applicant will comply with Section 504 of the Rehabilitation Act of 1973, as amended and implementing regulations.
- b. Covenants. Where property is purchased or improved with Federal financial assistance or where federal financial assistance is provided in the form of real property or interest in the property, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period in which the real property is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

- c. Section 504 Self-Evaluation. Each grantee shall meet and go over the self evaluation form in consultation with interested persons, including individuals with disabilities or organizations representing persons with disabilities in the local community. **See section VII. Chapter Supporting Materials for 504 Self-Evaluation Form.** The following steps should be followed as part of the meeting:

- 1) Evaluate its current policies and practices to determine whether, in whole or in part, they do or do not meet the requirements of Section 504;
- 2) Modify any policies or procedures that do not meet the requirements of Section 504; and
- 3) Take appropriate corrective steps to remedy the discrimination revealed by the self-evaluation.

A grantee that employs 15 or more persons shall, for at least three years following the completion of the evaluation, maintain on file, make available for public inspection, and provide to the responsible civil rights official, upon request: 1) a list of interested persons consulted; 2) a description of the areas examined and any problems identified; and 3) a description of any modifications made and of any remedial steps taken.

- d. Designation of responsible employee and adoption of grievance procedures. A grantee that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with Section 504 implementing regulations. Grantees, which employ 15 or more persons, must also adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 and related implementing regulations.

- e. Notice. A grantee that employs 15 or more persons shall:

- 1) Take appropriate initial and continuing steps to notify participants, beneficiaries, applicants and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the grantee that it does not discriminate on the basis of disability in violation of Section 504. The notification shall state, where appropriate, that the grantee does not discriminate in admission to, access to, or treatment or employment in its federally-assisted programs and activities. The notification shall also include an

identification of the designated responsible employee. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in grantee's publications, and distribution of memoranda or other written communications;

- 2) Include in recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants or employees, a statement of policy described in paragraph 1); and
- 3) Ensure that members of the population eligible or likely to be affected directly by a federally-assisted program who have visual or hearing impairments are provided with the information necessary to understand and participate in the program. Methods for ensuring participation include, but are not limited to, qualified sign language and oral interpreters, readers, or use of taped and Braille materials.

III. COMMON PROBLEMS FOUND AT MONITORINGS

- Under fair housing, grantees do not have a fair housing referral process for complaints and do not conduct activities to affirmatively further fair housing.
- Under Equal Opportunity, a separate Equal Opportunity Compliance file is not maintained which shows a comparison of local demographics to those of program recipients.
- Under contracting for services and construction, the necessary equal opportunity language provisions are not included in bid specifications and/or contracts.
- Grantees do not solicit women and minority contractors on published lists.
- Under Section 3, grantees hiring staff to work on their program do not provide outreach and training to low-income and minority residents of the jurisdiction for suitable CDBG-funded jobs.
- Grantees and/or contractors fail to ask prospective employees to fill out the Section 3 Resident Eligibility Certification form (see sample on page 4-39).
- Under Section 3, Grantees fail to keep accurate records regarding the characteristics of job applicants, persons interviewed, and persons hired for CDBG funded positions. Grantees also do not collect the proper Section 3 information from contractors in regard to recruiting and hiring Section 3 persons and subcontractors.

- Under Section 504, grantees do not conduct the proper evaluation of the community and identify what special efforts or changes they need to make in order to include the physically type of disability in CDBG-funded housing programs.
- Under Section 504, grantees are not aware of requirements that certain percentages of housing units developed with CDBG funds must be fitted for person with mobility impairments and visual impairments. For community facilities, they must be, to the greatest degree possible made accessible for persons with disabilities.

IV. DEPARTMENT'S ROLE.

The Department's CDBG staff is committed to assisting you in meeting the basic equal opportunity requirements and, more importantly, in developing and implementing affirmative equal opportunity programs.

The Department's CDBG program's equal opportunity staff is available to assist you in setting up and/or maintaining a comprehensive equal opportunity program in all relevant areas. Such assistance is available on how to do a needs assessment, how to use available census data, components of a successful employment program, contract compliance procedures, setting up fair housing programs, and referral training. The Department of Fair Employment and Housing is also available for technical assistance. **See section VII. Supporting Materials for list of Fair Housing Offices throughout the state.**

HUD has retained equal opportunity compliance responsibility. To assist you in complying, the Department (HCD) will monitor your performance and record keeping in the following areas:

1. Fair housing actions
2. Equal opportunity benefits to minorities, women, and persons with disabilities
3. Contract language compliance
4. Section 504 compliance actions
5. Section 3 residents training, employment, and contracting opportunities for Section 3 businesses
6. Minority and women business utilization

In addition, the Department will monitor your citizen participation efforts to ensure that the State's regulations regarding accommodation of non English-speaking concentrations (Section 7080) have been complied with. If a grantee has over 25 % of its community or target are as a non English speaking population, for example Spanish speaking, then you must provide public notices in Spanish and English and if needed provide translators. In addition, if a person with disabilities wishes to attend a hearing then the grantee must provide services for that individual so they can participate in the hearing discussion.

Where problems or potential problems exist in complying with equal opportunity provisions, the Department will inform HUD as soon as possible and work closely with you to resolve the problem. HUD will take formal corrective action only after all informal efforts have been attempted.

V. REFERENCES

- Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.2000d et seq.) prohibits discrimination on the basis of race, color or national origin in programs and activities receiving Federal financial assistance. The implementing regulations for HUD programs may be found at 28 CFR Part 1.
- Title VIII of the Civil Rights Act of 1968, commonly known as the Fair Housing Act, as amended, (42 U.S.C. 3601-3620) prohibits discrimination in the sale or rental housing on the basis of race, color, religion, sex, disability, national origin or familial status, and requires HUD to administer its programs in a manner that affirmatively promotes fair housing.
- Section 109 of Title I of the Housing and Community Development Act of 1974, as amended (24 CFR 570.602) provides that no person shall be excluded from participation or employment, or be denied benefits, or be subjected to discrimination on the basis of race, color, national origin, or sex, under any program or activity funded in whole or in part under the CDBG Program.
- Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that, to the greatest extent feasible, opportunities for training and employment that arise through CDBG-financed projects shall be given to lower-income residents of the project area, and that contracts awarded in connection with such projects be awarded to small businesses located in the project area or small businesses owned, in substantial part, by residents of the project area.
- Executive Order 11246, as amended, provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of employment during the performance of federal or federally-assisted construction contracts in excess of \$10,000.
- Executive Order 11063 (as amended by Executive Order 12259) provides that no person shall be discriminated against in the sale, rental, leasing or other disposition of housing on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance; and in lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.
- Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794) provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funds.

- The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157) requires that federally-funded buildings are designed, built or changed to insure the accessibility and use of the structures by individuals with disabilities.
- The Americans with Disabilities Act (ADA) (42 U.S.C. 12131; 47 U.S.C. 155,201,218 and 225) extends civil rights to those with disabilities in the following areas: employment, public accommodations, state and local government services, and telecommunications.
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101) provides that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funds. Its implementing regulations may be found at 24 CFR 1146.
- Office of Management and Budget Circular A-102 includes requirements for use of small, minority, and women contractors.

VI. SUGGESTED WEB SITES TO VISIT:

- 1) Code of Federal Regulations:
<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>
- 2) The Uniform Federal Accessibility Standards (UFAS):
http://www.hudclips.org/sub_nonhud/cgi/pdfforms/UFAS.pdf
- 3) Joint Reporting Committee EEO-1 Report (Standard Form 100):
<http://www.mimdms.com/jrc.html>
- 4) EEO-1 Report (Standard Form 100) Instruction Booklet:
<http://www.eeoc.gov/stats/jobpat/e1instruct.html>
- 5) Fair Housing Act Information:
<http://www.hud.gov/officed/fheo/FHLaws/index.cfmhttp>
<http://www.hud.gov/fhe/fhefhasp.html>
- 6) Section 504 Information:
<http://www.hud.gov/fhe/504/504faq.html>
<http://www.hud.gov/fhe/504/sect504.html>
- 7) Helpful HUD CPD Notices:
<http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notice/index.cm>
- 8) Fair Housing Compliance Publications (Dept. of Fair Employment and Housing)
www.dfeh.ca.gov

VII. SUPPORTING MATERIALS:

a) Fair Housing

1. Sample Complaint Referral Brochure.....	4-26
2. Sample Proclamation for Fair Housing Month.....	4-27
3. Sample Fair Housing Poster (Spanish).....	4-28
4. Sample Fair Housing Poster (English).....	4-29

b) Standard Contract Language

Equal Opportunity Language:

1. For All Contracts and Subcontracts	4-30
2. For all Bid Documents and Construction Contracts over \$10,000	4-32

WBE/MBE Language:

3. Standard Bid Document Language for Construction Contracts over \$10,000	4-40
4. Standard Contract Language for Construction Contracts over \$10,000	4-42
5. Suggested Language for Bid Documents to show how WBE/MBE Goals were met	4-44
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Section 3 Language

7. Practical Guidance for Complying with Section 3 Requirements Using the sample forms ..	4-46
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10. Sample Section 3 Affirmative Action Plan	4-49
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13. Sample Charts for New Hires/Training and Contractor/Businesses used	4-53
14. Sample Section 3 Business Utilization Report	4-55
15. List of contacts for securing Section 3 contractors	4-56

See Chapter 10 (Reporting) for Section 3 Summary Report and Contract and Subcontract Activity Report forms.

c) Section 504

1. Sample 504 Self Evaluation Form	4-57
2. Sample 504 Architects Certification Form	4-58

d) Lists of Contacts

1. Offices of Fair Housing and Equal Opportunity.....	4-59
2. U.S. Department of Labor Area Offices	4-60

Sample Fair Housing Complaint Referral Brochure

SEE ADOBE FILE IN THIS CHAPTER'S SUBDIRECTORY

Sample Proclamation to Designate April as Fair Housing Month

PROCLAMATION

DECLARING THE MONTH OF APRIL
FAIR HOUSING MONTH IN THE CITY/COUNTY OF _____

WHEREAS, the City/County of _____ is joining with the United States Department of Housing and Urban Development (HUD) and other housing agencies in celebrating the anniversary of the National Fair Housing Law, Title VII of the Civil Rights Act of 1968.

WHEREAS, the City/County of _____ encourages fair housing through the sales and rentals, as well as, through its housing rehabilitation and first time homebuyer programs.

WHEREAS, discrimination in housing is against the law. No person shall be discriminated against because of race, color, religion, sex, disability, familial status, or national origin in the sale, rental, or advertising of dwelling, in the provisions of brokerages services, or in the availability of residential real estate related transactions.

WHEREAS, if any City/County resident believes he or she has been discriminated against, the resident should contact the City/County's Fair Housing Coordinator, _____ at () 555-1212, ext 911. The City/County will provide information, counseling, and referral to the appropriate agency if formal complaint needs to be filed.

WHEREAS, in addition to the City/County's efforts, there is a Fair Housing Information Office in the office of the _____ Housing Authority, (000) 555-1212. Information is also available at the California Rural Legal Assistance (CRLA) office (000) 555-1212. The Fair Housing Information Office helps to ensure that all residents City/ County of _____ and the surrounding communities are treated fairly and that all the property owners and landlords abide by the letter and spirit of the Fair Housing Law.

WHEREAS, the City/County of _____, the State of California, HUD and various local agencies are working together to ensure equal treatment of all citizens. We urge everyone to practice the Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that I, Mayor/Chair _____ and the City Council/Board of Supervisors of the City/County of _____, declare the month of April as Fair Housing Month in the City/County of _____.



**IQUALDAD DE OPORTUNIDAD
EN LA VIVIENDA**

**Conducimos nuestros negocios de acuerdo a la Ley
Federal de Vivienda Justa**

(Acta de enmiendas de 1988 de la Ley Federal de Vivienda Justa)

**Es ilegal discriminar contra cualquier persona
Por razón de su raza, color, religión,
Sexo, incapacidad física o mental, la presencia
De niños menores de 18 años o de mujer
embarazada en su familia o su origen nacional**

- En la venta o renta de vivienda y terrenos residenciales
- En los servicios de corretaje que prestan vendedores de vivienda
- En los anuncios de venta o renta de vivienda
- En la valoración de vivienda
- En la financiación de vivienda
- También es ilegal forzarle a vender o rentar su vivienda diciéndole que gente de otra raza, religión o grupo étnico se están mudando en su vecindario
- Amenazar o interferir con la persona para que no registre su queja

Cualquier persona que sienta que fué discriminada debe de enviar su queja de Discriminación
1-800-669-9777 (Llamada gratis)
1-800-927-9275 (TDD llamada gratis)

**U.S. Department of Housing and
Urban Development
Assistant Secretary for Fair Housing and
Equal Opportunity
Washington, D.C. 20410**



**EQUAL HOUSING
OPPORTUNITY**

**We Do Business in Accordance With the Federal Fair
Housing Law**
(The Fair Housing Amendments Act of 1988)

**It is Illegal to Discriminate Against Any Person
Because of Race, Color, Religion, Sex,
Disability, Familial Status, or National Origin**

- In the sale or rental of housing or residential lots
- In advertising the sale or rental of housing
- In the financing of housing
- In the provision of real estate brokerage services
- In the appraisal of housing
- Blockbusting is also illegal

Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination:

1-800-669-9777 (Toll Free)
1-800-927-9275 (TDD)

**U.S. Department of Housing and
Urban Development**
**Assistant Secretary for Fair Housing and
Equal Opportunity**
Washington, D.C. 20410

**EQUAL OPPORTUNITY
STANDARD CONTRACT LANGUAGE:
ALL CONTRACTS AND SUBCONTRACTS**

1. The Civil Rights, HCD, and Age Discrimination Acts Assurances:

During the performance of this Agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, or disability, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, and the Age Discrimination Act of 1975, and all implementing regulations.

2. The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance:

- a) The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for Work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c) The Grantee will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advertising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d) The Grantee will include these Section 3 clauses in every contract and subcontract for work in connection with the project and will, at the direction of the State, take appropriate action pursuant to the contract upon a finding that the Grantee or any contractor or subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and, will not let any contract unless the Grantee or contractor or subcontractor has first provided it with a

preliminary statement of ability to comply with the requirements of these regulations.

- e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be a condition of the Federal financial assistance provided to the project, binding upon the Grantee, its successors, and assigns. Failure to fulfill these requirements shall subject the Grantee, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

3. State Nondiscrimination Clause:

1. During the performance of this contract, contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age (over 40) or sex. Contractors and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7258.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
2. This contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

“The Contractor hereby agree to abide by the requirement of executive order 11246 and all implement regulations of the Department of Labor.”

**EQUAL OPPORTUNITY
STANDARD SOLICITATION FOR BID AND CONTRACT LANGUAGE -
CONSTRUCTION OVER \$10,000**

A. Equal Opportunity Clause. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or

by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.

7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 504 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work; provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and Federally assisted construction contracts, pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

B. Federal Equal Employment Opportunity Construction Contract Specifications.

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted.
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
 - c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin).
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race).
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, southeast Asia, the Indian subcontinent or the Pacific Islands).
 - (4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the plan area (including goals and timetables) shall be in accordance with that plan for those trades which have unions participating in the plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it

has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the plan's goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7.a. through 7.p. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with

specific attention to minority or female individuals working at such sites or in such facilities.

- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7.b. above.
- f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions, including specific review of these items with on-site supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be

made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

- h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after-school summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60.3.
- l. Conduct at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

- p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7.a. through 7.p.). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7.a. through 7.p. of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is under-utilized).
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.
11. The contractor shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to Executive Order 11246.
12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results

from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company's EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee the name, address, telephone number, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area resident (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
16. By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that he/she does not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas,* transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, habits, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

_ *Parking lots, drinking fountains, recreation or entertainment areas.

**WBE/ MBE STANDARD
BID DOCUMENT LANGUAGE FOR
CONSTRUCTION CONTRACTS OVER \$10,000**

(The following notice shall be included in and shall be a part of all solicitations for offers and bids on all Federal and Federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the Secretary of Labor.)

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246).

1. The offeror or bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered areas are as follows:

GOALS FOR MINORITY

GOALS FOR FEMALE

**PARTICIPATION IN
TIMETABLES EACH TRADE**

EACH TRADE

These goals are applicable to all contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform through the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order and

the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs, U.S. Department of Labor, within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any).

**WBE/MBE
STANDARD CONTRACT LANGUAGE -
CONSTRUCTION OVER \$10,000**

FEMALE AND MINORITY GOALS AND TIMETABLES

The following goals and timetables for female utilization shall be included in all Federal and Federally-assisted construction contracts and subcontracts in excess of \$10,000. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or Federally-assisted construction contract or subcontract.

AREA COVERED
(Goals for females apply nationwide)

<u>Timetable</u>	<u>Goal</u>
From April 1, 1981, until further notice	6.9%

Until further notice, the following goals for minority utilization in each construction craft and trade shall be included in all Federal or Federally-assisted construction contracts and subcontracts in excess of \$10,000 to be performed in the respective geographical areas. The goals are applicable to each nonexempt contractor's total on-site construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, Federally-assisted, or non-Federally related project, contract, or subcontract.

Construction contractors participating in an approved Hometown Plan (see 41 CFR 60-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such contractors are required to comply with the applicable SMSA or EA goal contained in this appendix.

ECONOMIC AREAS

<u>Area Covered</u>	<u>Goal Percent</u>
Redding Economic Area Lassen County, Modoc County, Plumas County, Shasta County, Siskiyou County, Tehama County	6.8%
Eureka Economic Area Del Norte County, Humboldt County, Trinity County	6.8%

San Francisco-Oakland-San Jose Economic Area	
Monterey County	28.9%
Alameda County, Contra Costa County, Marin County, San Francisco County, San Mateo County	25.6%
Santa Clara County	19.6%
Santa Cruz County	14.9%
Sonoma County	9.1%
Napa County, Solano County	17.1%
Lake County, Mendocino County, San Benito County	23.2%
Mono County	24.6%
Sacramento Economic Area	
Placer County, Sacramento County, Yolo County	16.1%
Butte County, Colusa County, El Dorado County, Glenn County, Nevada County, Sierra County, Sutter County, Yuba County	14.3%
Stockton-Modesto Economic Area	
Stanislaus County	12.3%
San Joaquin County	24.3%
Alpine County, Amador County, Calaveras County, Mariposa County, Merced County, Tuolumne County	19.8%
Fresno-Bakersfield Economic Area	
Kern County	19.1%
Fresno County	26.1%
Kings County, Madera County, Tulare County	23.6%
Los Angeles Economic Area	
Inyo County, San Luis Obispo County	24.6%
Los Angeles County	28.3%
Orange County	11.9%
San Bernardino County	19.9%
Santa Barbara County	19.7%
Ventura County	21.5%
San Diego Economic Area	
Imperial County	18.2%
Riverside County	19.0%
San Diego County	16.9%

**WBE/MBE SUGGESTED
BID DOCUMENT LANGUAGE FOR
MINORITY/WOMEN'S BUSINESS ENTERPRISE CONSTRUCTION PROJECTS**

- (a) It is the policy of the _____ to take positive steps to maximize the utilization of minority and women's business enterprises in all contract activity administered by the _____.
- (b) The contractor will utilize his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority or women's business enterprise" means a business, at least 50% of which is owned by minority group members or women or, in the case of publicly-owned businesses, at least 51% of the stock is owned by minority group members or women. For the purpose of this definition, minority group members are Black, Hispanics, Asians, Native Americans, Alaskans or Pacific Islanders.
- (c) The contractor will submit the following statement as part of his/her sealed bid:

I have taken affirmative action to seek out and consider minority and women's business enterprises for the portions of work to be subcontracted. Such actions are fully documented in my records and available upon request. Results are as follows:

Name and Address of Minority/
Women's Firms Contractor

Anticipates Utilizing*

Category of Work

Dollar Value of
Participation

Total Bid _____

Total Subcontract Amount

Minority/Women's Enterprise Total of Subcontract Amount

*Indicate whether business is owned by a minority or a woman.

OBTAINING LISTS OF MINORITY AND WOMEN CONTRACTORS

Caltrans is an excellent source of information regarding minority and women contractors. A complete copy of the statewide listing may be obtained by calling the Caltrans Publications Distribution Unit at (916) 445-3520.

Other sources of information are:

Caltrans Civil Rights Program, Business Enterprise Program, (916) 324-1700 or toll free at 1-866 810-6346
Civil Rights Website: <http://www.dot.ca.gov/hq/bep>

National Economic Development Association, (916) 649-2551.

PRACTICAL GUIDANCE FOR COMPLYING WITH SECTION 3 REGULATIONS

For Jurisdictions using CDBG funds to pay local staff to implement CDBG programs and projects:

If you receive a grant or have program income in excess of \$200,000 per year and are using it to do housing rehabilitation, housing construction, or public construction projects, and you are paying some of your local full time staff to run the CDBG programs, then you are responsible for doing Section 3 outreach and reporting. This means that your personnel policies should include language about outreach (notices using standard Section 3 contract language) and preferences which are set up for hiring Section 3 eligible persons to fill those full time (permanent, temporary, seasonal) positions when they become vacant. You will need to keep a Section 3 file and, when a CDBG funded position becomes available, then you must document your Section 3 outreach efforts and who submitted applications. Use the sample forms in this section of the chapter to document compliance. If you were not able to hire a Section 3 person then you must document why. You will also report those hires on your annual Section 3 report.

For Jurisdictions using CDBG funds to pay contractors and/or subcontractors on housing and public construction projects over \$100,000:

If you have a construction project which requires over \$200,000 in CDBG funds and has prime and subcontractor construction contracts which are at or above \$100,000, then you must include the standard Section 3 language in the contract of each prime and subcontractor. Use forms in this section to document compliance.

Grantees will require prime contractors must do outreach to and when possible give preference to local subcontractor who meets the Section 3 business definition. They must document those efforts and report how many Section 3 subcontractors/businesses they were able to hire. The grantee will then report those hires on their annual Section 3 report.

Grantee will require prime contractors and those subcontractors with contracts above \$100,000 to certify that they will or will not be hiring any new full time staff (permanent, temporary, seasonal) as part of completing the construction work. They shall also certify that they will or will not be providing training opportunities as part of completing the project. If the prime contractor and subcontractors certify that they will not be doing any new hires or providing any employment training opportunities as part of the project then no further action is needed. If they certify that there will be new full time hires and/or employment training opportunities, then the grantee shall require the prime and subcontractor(s) to provide documentation of outreach efforts, preferences given, and number of new hires which qualify as Section 3 residents. If they were not able to meet the Section 3 goals then they should document why those goals were not met.

When this highest level of Section 3 compliance is triggered then the grantee must also document that any other non-construction contracts awarded under the grant activity were done in compliance with Section 3 regulations. Thus, if the grantee hired a labor standards coordinator to over see the wage compliance on the construction project, then the grantee should do Section 3 outreach as part of it procurement and document if the consultant hired for labor standards monitoring was a Section 3 business and report that information on the annual Section 3 report.

State Department of General Services, Office of Small and Minority Business, (916) 322-5060.

National Economic Development Association, (916) 649-2551.

**SECTION 3 CLAUSE
FOR CONSTRUCTION CONTRACTS AND SUBCONTRACTS
AT OR ABOVE \$100,000**

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidence by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

Section 3 Numerical Goals/Targets:

- 1) The Target for New Hires & Training Opportunities is 30% of the aggregate # of new hires
- 2) Targets for Contracts with Section 3 Business Concerns is, Construction 10% of the total dollar amount. All Other contracts, 3% of the total dollar amount of all other Section 3 covered contracts.

SECTION 3 ASSURANCES

[FORM MUST BE COMPLETED AND SUBMITTED PRIOR TO AWARD]

1. I/We, the undersigned _____ (representative), as official representative of _____ (contractor) agree to comply with Section 3 requirements for the _____ (project). It is understood that failure to comply may result in the following sanctions: cancellation, termination, or suspension in whole or in part of this contract. A copy of this executed form and the charts for hires and contractors will be provided to the city/county along with any back up documentation requested prior to execution of contract.
2. Complete for Staffing
 - A. How many **new full time** (permanent, temporary, seasonal) positions will be needed on this project? _____
 - B. How many new employment training positions will be created? _____
 - C. If New Hires and Employment Training will take place, how many positions are projected to be filled by local low income area residents? _____ (see goal below).

If new hires or employment training are anticipated then contractor must provide copies of outreach efforts, any preferences given, and any actual Section 3 hires completed. If there were no Section 3 residents hired or the goals were not met, then an explanation of why this happened will be provided.
 - D. If new hires or training were made available, did contractor reach 30% Section 3 goal/target? _____

SEE ATTACHED CHART WITH LIST OF ALL NEW HIRES/TRANIEES FOR THIS PROJECT

3. Complete for construction subcontractors and non construction contracts
 - A. How many construction subcontractors will be utilized for this project? _____
 - B. Of these subcontractors, how many are Section 3 subcontractors? _____
 - 1) Was the Section 3 Goal/target of 10% of project dollar amount reached? _____
 - C. How many non-construction contracts will be utilized? _____
 - D. Of these, how many are Section 3 businesses? _____
 - 1) Was the Section 3 Goal/target of 3% of project dollar amount reached? _____

SEE ATTACHED CHART WITH LIST OF ALL CONTRACTORS HIRED FOR THIS PROJECT

Authorized Signature _____ Date: _____

SECTION 3 AFFIRMATIVE ACTION PLAN
[FORM MUST BE COMPLETED AND SUBMITTED ONLY IF NEW HIRES OR TRAINING
POSITIONS ARE ANTICIPATED]

In accordance with the Housing and Urban Development Act of 1968, as amended, and the regulations pursuant to that Act.

(Contractor)

Agrees to comply with Section 3 of that Act by assuring that to the greatest extent feasible:

1. Training and employment opportunities will be given to lower income residents of the project; and
2. Contracts in connection with the project will be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

_____ will initiate the following actions to insure utilization of lower income project residents as employees or trainees and to incorporate project area small businesses as subcontractors and suppliers.

1. The Contractor will establish and maintain a directory of service organization, job referral agencies and manpower training programs operating within, or servicing, project area residents.
2. The Contractor will submit prior to the award of a contract, a signed assurance that it will comply with Section 3 regulations and requirements.
3. The Contractor will provide, prior to the signing of a contract, a statement of work force needs, including trainee positions.
4. The Contractor will notify community-based organizations of available employment opportunities, and shall maintain records of response from such organizations.
5. The Contractor will make continuing personal recruitment efforts directed to such service organizations and to schools with lower income resident training programs with which he is familiar.
6. The Contractor will maintain a file of the names and addresses of each low-income resident workers referred to him and that action was taken with respect to each such referred worker and , if the worker was not employed, the reasons therefore (attached).
7. The Contractor will include the Section 3 clause in every subcontract for work in connection with HUD-assisted projects (attached).
8. For each subcontract, the Prime Contractor will submit, prior to contract award, the Section 3 Affirmative Action Plans of its subcontractors.

9. The Contractor will not attempt to circumvent Section 3 provisions.
10. The Contractor will, to the greatest extent feasible, attempt to employ or fill training positions with lower income project area residents; it will, as a minimum, provide evidence of the following:
 - a. Attempts to recruit from the project area through local advertising media, community organizations, public and private agencies operating within or serving the project area, such as the State Employment Department, and the Private Industry Council.
 - b. Maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and that he has employed such persons if otherwise qualified and if an opening exists.
11. The Contractor will, to the greatest extent feasible, attempt to incorporate project area businesses as subcontractors and suppliers.
12. The Contractor will provide the Section 3 workforce and business utilization reports required under this contract.

_____ fully realizes failure or refusal to comply and give satisfactory assurances of future compliance with the requirements of this Affirmative Action Plan shall be proper basis for any and all of the following actions: cancellation, termination or suspension in whole or in part of the contract; a determination of ineligibility or debarment from any further contracts under any Federal program with respect to which the failure or future occurred until satisfactory assurances of future compliance have been received.

Authorized Signature _____ Date: _____

Section 3 Resident Eligibility Certification

The U.S. Department of Housing and Urban Development (HUD) monitors our hiring practices on Section 3-funded projects. It is important, therefore that the information below be provided. Please be aware that your response, though needed, is voluntary and has no affect on your employment status.

Because these questions are personal in nature, your answers will be treated with confidentiality. Thank you for assisting us.

Sincerely,

[Name of agency/department
of _____ City/County

1. Name: _____

Address: _____

2. Number of individuals living in your household (include yourself): _____

3. Total annual household income (please check one):

[Complete this using current HUD income limits for your county]

_____ Less than \$ _____ _____ Between \$ _____ - \$ _____

_____ Between \$ _____ - \$ _____ _____ Between \$ _____ - \$ _____

_____ Between \$ _____ - \$ _____ _____ Between \$ _____ - \$ _____

_____ Between \$ _____ - \$ _____ _____ Between \$ _____ - \$ _____

_____ Above \$ _____

4. Are you currently employed? _____ Yes _____ No

I certify that the statements made on this sheet are true, complete and correct to be best of my knowledge and belief, and made in good faith.

Date: _____ Signature: _____

Section 3 Business Eligibility Certification

The U.S. Department of Housing and Urban Development (HUD) monitors our hiring practices on Section 3-covered projects. It is important, therefore that the information below be provided. Please be aware that your response, though needed, is voluntary and has no affect on your contracting.

Your answers will be treated with confidentiality. Thank you for assisting us.

Sincerely,

[Name of agency/department
of _____ City/County

Business Name: _____

Address: _____

1. Are 51% of business owners qualified Section 3 Residents? _____ If **YES** stop, if **NO** proceed.
2. Are at least 30% of your employees Section 3 Residents (or were they when they stated less three years ago)? _____ If **YES** then stop, if **NO** then proceed.
3. Does the business subcontract in excess of 25% of the dollar award of all subcontracted to be awarded to business concerns that meet the qualification set forth in number 1 & 2 above? _____ If **YES** stop, if **NO** proceed.

We currently do not qualify as a Section 3 business _____

I certify that the statements made on this sheet are true, complete and correct to be best of my knowledge and belief, and made in good faith.

Date: _____ Signature: _____

SECTION 3 PROJECT WORK FORCE BREAKDOWN

Job Category	Total Positions Needed for Project	No. Positions Occupied by Permanent Employees	Number of Positions not Occupied	Number of Positions filled with Section 3 residents
Supervisor				
Professional				
Technical				
Office/Cleric.				
Others				
TRADE:				
Journeyman				
Apprentices				
Trainees				
Others				
TRADE:				
Journeyman				
Apprentices				
Trainees				
Others				

Section 3 Resident:

Individual residing within the Section 3 Area whose family income does not exceed 80% of the median income in the Metropolitan Statistical Area or the county if not within a MSA in which the Section 3-covered project is located. See attached income schedule.

NOTE: This document must be submitted with bid documents.

Person completing Form

Date: _____

Company

Project

Project Number

SECTION 3 CONTRACTS/SUBCONTRACTS BREAKDOWN

Type of Contract (Business or Profession)	Total Number	Total Approx. Dollar Amount	Estimated No. of Contracts to Section 3 Businesses	Estimated Dollar Amount to Sec. 3 Businesses

NOTE:

This document is to be submitted by
the contractor with bid documents.

Company

Project

CDBG Grant Number

Date

Person Completing Form

SECTION 3 BUSINESS UTILIZATION REPORT

Project No. _____ Total Dollar Amount of Contract _____ Federal ID No. _____
Name of Prime Contractor _____ Address _____

Name of Subcontractor	Sec3 *	Address/Telephone	Trade/Service or Supply	Contract Amount	Award Date	Competitive or Negotiated Bid	Federal Identification No.

*Check if Section 3

Total Dollar Amount Awarded to
Section 3 Businesses \$ _____

NOTE: This report must be completed and submitted by
the Contractor (monthly) with each payment request.

Date

Company

Project

Project Number

Person Completing Form

OBTAINING LISTS OF SECTION 3 CONTRACTORS

Caltrans Civil Rights Program, Business Enterprise Program, (916) 324-1700 or toll free at 1-866 810-6346
Civil Rights Website: <http://www.dot.ca.gov/hq/bep>

National Economic Development Association, (916) 649-2551.

Contact your local Small Business Administration (SBA) Office

Contact your local public housing authority

SECTION 504 SELF-EVALUATION

State of California / Department of Housing & Community Development

Grantee: _____

Grant #: _____

Date: _____

AREAS DISCUSSED	PROBLEMS IDENTIFIED	MODIFICATIONS MADE
<u>COMMUNICATIONS: Program Publicity</u> Public Notices and ads in newspaper? yes / no Public Service Announcements? yes / no Posters or fliers? yes / no Letters to homeowners in area? yes / no Informational public meetings? yes / no Interpreters, readers, or TDD's available upon request? yes / no Equal Opportunity statement in ads, fliers, letters? yes / no		
<u>EMPLOYMENT:</u> Does the City make reasonable accommodation to known Physical or mental limitations of qualified applicants or employers with disabilities? yes / no Pre-employment inquiries and tests do not screen out persons with disabilities? yes / no		
<u>PROGRAM ACCESSIBILITY:</u> Are City/County facilities accessible to and usable by individuals with disabilities (for example: ramps, space at meetings)? yes / no Are modifications for individual with disabilities offered in rehabilitation programs? yes / no Disabled individuals with limited mobility assisted with applications at their homes? yes / no		
<u>ENFORCEMENT - Evaluate how policies meet 504 requirements:</u> Statement of Assurances in grant applications? yes / no Non-discrimination clause in deed of trust? yes / no Names of Advisors on Disability issues: _____ _____ Does the City/County have procedures for complaints? yes / no Is log maintained of any complaints? yes / no		

NAME OF SECTION 504 COORDINATOR: _____

Form #: EO-1

CDBGGMM.07/05

ARCHITECT'S COMPLETION CERTIFICATE
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) HOUSING PROJECT
FOR COMPLIANCE WITH SECTION 504 ACCESSIBILITY REGULATIONS

PROJECT NAME: _____

CDBG Contract No, _____

DATE CONSTRUCTION COMPLETED: _____

1. Based upon the inspections of the architect done in accordance with customary standards of a prudent architect, the construction of the Project has been performed in substantial accordance with the plans showing accessibility in conformance with federal regulations Section 504. A previously submitted Section 504 certification of compliance with Section 504 accessibility standards was reviewed and accepted by HCD. The Project is complete (except for minor punch list items specifically described in such certificate with estimated costs) so that tenants may occupy and the Borrower may operate and use the Project for the purposes for which it was intended;
2. The Project has all utility connections necessary for its intended use;
3. All permits, licenses and governmental approvals necessary for occupancy, operation and use of the Project have been obtained;
4. The Project, as constructed, complies with all applicable statutes, codes, zoning ordinances and regulations, including, but not limited to, accessibility standards for persons with disabilities as mandated by federal, state and local law;
5. Adequate ingress and egress to and from the Project is available over public streets, rights of way and easements; and
6. The California Department of Housing and Community Development (HCD) is entitled to rely on such certificate.

Architect: _____

By: _____

Name: _____

Title: _____

Registration: _____

Date: _____

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING DISTRICT OFFICES

DFEH OFFICE

Bakersfield: (805) 395-2729
1001 Tower Way, #250
Bakersfield, CA 93309-1586

Fresno: (209) 445-5557
1900 Mariposa Mall, #130
Fresno, CA 93721-2504

Los Angeles: (213) 897-2844
322 W. First St., #2126
Los Angeles, CA 90012-3112

Oakland: (510) 286-4275
1330 Broadway, #1530
Oakland, CA 94612-2512

Sacramento: (916) 445-5523
2000 "O" St., #120
Sacramento, CA 95814-5212

San Bernardino: (909) 383-4373
1845 S. Business Ctr. Dr., #127
San Bernardino, CA 92408-3426

San Diego: (619) 645-2681
110 W. "C" St., #1702
San Diego, CA 92101-3901

San Francisco: (415) 557-2006
30 Van Ness Ave., #3000
San Francisco, CA 94102-6073

San Jose: (408) 277-1277
111 N. Market, #810
San Jose, CA 95113-1102

Santa Ana: (714) 558-4266
28 Civic Center Plaza, #538
Santa Ana, CA 92701-4010

Ventura: (805) 654-4514
1732 Palma Dr., #200
Ventura, CA 93003

COUNTIES OF JURISDICTION

Inyo, Kern, Mono, Tulare

Fresno, Kings, Madera,
Mariposa, Merced, Stanislaus

Los Angeles

Alameda, Contra Costa, Napa,
San Joaquin, Solano

Alpine, Amador, Butte, Calaveras, Colusa, El
Dorado, Glenn, Lassen, Modoc, Nevada, Placer
Plumas, Sacramento, Shasta, Sierra, Siskiyou
Sutter, Tehama, Trinity, Tuolumne, Yolo, Yuba

Riverside, San Bernardino

Imperial, San Diego

Del Norte, Humboldt, Lake, Marin,
Mendocino, San Francisco, San Mateo
Sonoma

Monterey, San Benito, Santa Clara,
Santa Cruz

Orange

San Luis Obispo, Santa Barbara, Ventura

U.S. DEPARTMENT OF LABOR
Office of Federal Contract Compliance Programs (OFCCP)

Regional Director
Regional Office, OFCCP
U.S. Department of Labor
71 Stevenson Street, Suite 1700
San Francisco, CA 94105
Phone (415) 975-4720 Fax (415) 975-4723

District Offices

OFCCP District Director
U.S. Department of Labor
11000 Wilshire Blvd., Suite 8103
Los Angeles, CA 90024
Phone (310) 235-6800/Fax (310) 235-6833

OFCCP District Director
U.S. Department of Labor
1301 Clay St., Suite 1080-N
Oakland, CA 94612
Phone (510) 637-2938/Fax (510) 637-2946

OFCCP District Director
U.S. Department of Labor
5675 Ruffin Rd, Suite 320
San Diego, CA 92123-5378
Phone (619) 557-6489/Fax (619) 557-6609

OFCCP District Director
U.S. Department of Labor
60 S. Market St., Suite 410
San Jose, CA 95113-2328
Phone (408) 291-7384/Fax (408) 291-7559

OFCCP District Director
U.S. Department of Labor
34 Civic Center Plaza, Suite 712
Santa Ana, CA 92712-2800
Phone (714) 836-2784/Fax (714) 836-2781

Counties Served by District Office

Inyo, Kern, Los Angeles, San Luis Obispo,
Santa Barbara, Tulare, Ventura

Alameda, Amador, Butte, Colusa,, Contra
Costa, Del Norte, El Dorado, Glenn,
Humboldt, Lake, Lassen, Marin, Mendocino,
Modoc, Napa, Nevada, Placer, Plumas,
Sacramento, San Francisco, San Joaquin
San Mateo, Shasta, Sierra, Siskiyou,, Solano
Sonoma, Sutter, Tehama, Trinity, Yolo, Yuba

Imperial, San Diego

Alpine, Calaveras, Fresno, Kings, Madera
Mariposa, Merced, Mono, Monterey,
San Benito, Santa Clara, Santa Cruz,
Stanislaus, Tuolumne

Orange, Riverside, San Bernardino